

Title 35 Mississippi State Tax Commission

Part X Economic Development

Chapter 01 Jobs Tax Credit

100 Qualifying for and Calculating the Jobs Tax Credit

101 Under Miss. Code Ann. Section 57-73-21, income tax credits are available for:

1. Permanent business enterprises primarily engaged in manufacturing, processing, distribution, wholesaling, research and development and warehousing.
2. Permanent business enterprises designated by rule or regulation of the Mississippi Development Authority as air transportation and maintenance facilities, final destination or resort hotels having a minimum of 150 guest rooms, recreational facilities that impact tourism, movie industry studios, telecommunication enterprises, data or information processing enterprises, computer software development enterprises or any technology intensive facility or enterprise.

102 No business enterprise for the transportation, handling, storage, processing or disposal of hazardous waste is eligible to receive this credit.

103 The jobs tax credit is for each net new full time job created as long as the minimum increase has been achieved and maintained. The credit is allowed each year for 5 years beginning in years 2 through 6 after the creation of the job. The year the jobs are created is year 1. The unused portions can be carried forward for up to 5 years from the original year in which the excess credit could not be used. The earliest year's unexpired credit may be used first. These credits may be used in combination with any of the other credits.

104 For the purposes of this credit, the counties in Mississippi are classified as Tier Three (less developed), Tier Two (moderately developed), and Tier One (developed). The counties are evaluated and ranked each year based on the unemployment rate and per capita income of each county for the most recent 36 month period. They are then divided into the three previously mentioned groups with one-third of the counties in each group. The classification for a specific county can change from year to year based on this evaluation.

105 This classification is used to determine the minimum number of jobs a business enterprise must create in a given year before it qualifies for the credit. It is also used to determine the amount of credit per job created. The amount of credit per employee and the job levels for each county classification are as follows:

Minimum Annual Increase		
<u>County Classification</u>	<u>in Number of Jobs</u>	<u>Credit per Job</u>

Tier One	20	2.50% of payroll
Tier Two	15	5.00% of payroll
Tier Three	10	10.00% of payroll

- 106 After a taxpayer has qualified for the credit, the credit is not allowed for a year if the net employment increase falls below the minimum required for qualification. The credit is only lost for the year(s) that the taxpayer is below the minimum. A recapture of credit taken in previous year(s) is not required. If the taxpayer's employment level increases back above the minimum, then the taxpayer may use the credit for the remainder of the period, however, the original five year period for the credit (years 2 through 6) is not extended. A taxpayer can only earn credit at a given level of employment for a single five (5) year period.
- 107 To determine whether a taxpayer with an existing facility has created the minimum number of jobs to qualify for the credit, the taxpayer must compare the average annual employment level for the previous year with the average annual employment in the current year. If the amount of the increase exceeds the minimum required, then the employer would qualify for the credit. This allows the credit for employers who have not constructed a new facility, but have substantially increased employment at an existing facility.
- 108 To determine whether a taxpayer with a new facility qualifies for the credit, the average employment for the portion of the year after production was started should be compared with the same period for the previous year. If the increase exceeds the minimum, then the taxpayer would qualify for the credit. For example, a calendar year taxpayer begins doing business in Mississippi and constructs a new facility that starts up on June 1, 2007. To determine whether the taxpayer qualifies for the credit, June through December of 2007 should be compared to June through December of 2006. If the increase meets the minimum requirement, then the taxpayer would qualify for the credit.
- 109 The amount of increase in jobs necessary to qualify for the credit must occur within 1 year. They may not be accumulated over several years. The credit is allowed for net new full time jobs. Part time jobs may not be combined to create full time jobs.
- 110 If an employer qualified for the credit but then reduced employment levels through layoffs or plant closures, the reduction in employment must continue for a minimum of five (5) years before the employer may use the reduced employment levels in the computation of additional credit. If the reduction in employment is for five (5) years or more, then the employer may requalify for the credit on any additional jobs. If the reduction has continued for less than five (5) years, then the employer may requalify in very limited circumstances. Such situations will be considered on a case by case basis. The taxpayer should submit a letter with a request to receive the credit and a justification for the request. The credit will be granted at the discretion of the Commissioner.

- 111 The sale, merger, acquisition, reorganization, bankruptcy or relocation from one county to another county within the state of any business enterprise may not create new eligibility in the current or any succeeding business entity, but any unused job tax credit may be transferred and continued by any transferee of the business enterprise. The Commissioner shall determine whether qualifying net increases have occurred or proper transfers of credit have been made and may require such information as needed for substantiation and qualification.
- 112 The credit cannot be used by any business enterprise or corporation other than the business enterprise actually qualifying for the credits. Credit received by a partnership, LLC or an S-Corporation may be passed through to offset tax due from the activity that created the credit. The credit is subject to the same limitations that the pass through entity would have had. The tax due on salaries or wages paid by an S-Corporation and guaranteed payments to partners by a partnership cannot be offset by the credit.
- 113 The total of the Jobs Tax Credit, the Headquarters Credit and the Research & Development Skills Credit is limited to 50% of the Mississippi income tax liability. The credit is not refundable.
- 114 The form prescribed by the Commissioner which shows the computation of the credit must be attached to the Mississippi state income tax return.
- 200 Certification of the Credit
- 201 An application for this credit is not required. However, an application must be submitted to lock in the county classification.
- 202 If an employer plans to expand its labor forces in a facility in a Tier Three or Tier Two county, then the employer may complete the certification application and make a request in a letter that the current designation of the county be retained in relationship to the expansion. This allows an employer to retain the county designation and the amount of anticipated credit that was in effect for the expansion.
- 203 If there is no construction or expansion of a facility, the expansion in labor forces must take place by the end of the following tax year for the certification and county designation to remain valid. If there is a construction or expansion of a facility, it must begin within one (1) year of the certification for the certification and county designation to remain valid. This initial certification is only good for the credits covered under the specific certification generated during years two (2) through six (6) after the expansion of labor. This certification to lock in the county's classification will not be granted retroactively. For subsequent qualification and credit for additional increases in employment, the county designation in effect at that time should be used to determine the qualification and amount of the credit.

